

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

JAMES COX,

**Plaintiff(s).**

Case No. 2:15-CV-2294 JCM (GWF)

## ORDER

V.

PNC BANK NATIONAL ASSOCIATION,  
et al.,

Defendant(s).

Presently before the court is the matter of *Cox v. PNC Bank, National Association, et al.*, case no. 2:15-cv-02294-JCM-GWF.

On July 1, 2016, the court entered an order. (ECF No. 14). After dismissing plaintiff James Cox's complaint with respect to defendant PNC Bank, National Association ("PNC"), the court ordered plaintiff James Cox to show cause why the complaint should not be dismissed in its entirety for failure to serve defendant Clear Recon Corporation, the only remaining defendant in the action. (*Id.* at 5). The court provided plaintiff seven days to provide proof of service or show good cause as to why service had not been made. (*Id.*)

Plaintiff has not provided proof of service or shown good cause. This action is therefore dismissed in its entirety and closed.<sup>1</sup>

<sup>1</sup> PNC has also submitted a proposed judgment dismissing plaintiff's claims *with prejudice*. (ECF No. 15). PNC argues that Federal Rule of Civil Procedure ("Rule") 15(a)(1)(B) provides twenty-one days *after the ruling* on a motion filed pursuant to Rule 12(b) for a plaintiff to file an amended complaint. Because plaintiff failed to do so within that time-frame, defendant argues the complaint should be dismissed with prejudice. Actually, Rule 15(a)(1)(B) provides twenty-one days to file an amended complaint *after service* of a motion under Rule 12(b) and has no relation to the date of the court's ruling on such a motion. *See FED. R. CIV. P. 15(a)(1)(B)*. PNC was served with the motion long ago, and that deadline has passed. Plaintiff's decision not to file an amended

Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the complaint in this matter (ECF No. 1-1) be, and the same hereby is, DISMISSED without prejudice.

The clerk shall enter judgment accordingly and close the case.

DATED July 28, 2016.

Xenos C. Mahan  
UNITED STATES DISTRICT JUDGE

complaint under that provision is not grounds for dismissal with prejudice, and PNC has not identified other grounds for dismissal with prejudice. The complaint will therefore be dismissed *without* prejudice, consistent with the court's July 1, 2016 order on PNC's motion to dismiss. (See ECF No. 14 at 5). The court declines to enter PNC's proposed judgment.